



Meeting Abstract

1. Discussed update to the Land Use Resource Management Strategy (RMS) chapter
2. Reviewed status on Land Use Tool and Progress Report

Action Items

ITEM	OWNER	TIMEFRAME
1. Send Elizabeth Patterson, DWR the land use notes from the Public AC and Mountain Counties Regional Forum meeting summaries.	Judie Talbot, CCP	30 days
2. Check with the infill builders association for photos.	OPR, Elizabeth Patterson	Prior to Layout
3. Obtain Federal highway Tribal consultation guidelines.	Elizabeth Patterson, & DWR to assist	Prior to next meeting
4. Preparer language to discuss tribal issues and best practices, which will be incorporated into the RMS chapter. This will include larger planning processes including impacted watersheds.	Kimberly Johnson-Dodds & Stephanie Lucero, CCP	For inclusion in next draft
5. Check with the team managing the IRWM Strategic Plan process to see if there is an opportunity to engage and discuss this issue	Lew Moeller, DWR and Karen Buhr, Public AC	Prior to next meeting
6. Develop a recommendation regarding assessing the current state of IRWM efforts. This will link to the progress report.	DWR & OPR Team	For inclusion in next draft
7. Check with the Sierra Nevada Conservancy (SNC) management to determine if there are any guiding documents for the SNC that should be referenced related to the Land Use RMS.	Angela Avery	30 days
8. Discuss the utility of pulling together a Mountain Counties work group to discuss the RMS and tools helpful to rural areas.	SNC, Lew Moeller, DWR Regional Coordinators	60 days
9. Provide draft text to identify cap and trade revenue options as source of funding for planning activities	Elizabeth Patterson	30 days
10. Contact the Legislative Analyst Office regarding potential graphics for use in the Land Use RMS	Lisa Beutler	60 days
11. Create a graphic illustrating how land use decisions are made	Elizabeth Patterson	60 days
12. Recommendation #1 (incentives for infill and compact development) will be circled back to the DAC/EJ Caucus and Debbie Davis at OPR– there were some concerns that surfaced with a PCL concept similar to this recommendation.	Lisa Beutler and Ben Rubin	30 days



ITEM	OWNER	TIMEFRAME
13. Provide language to strengthen Recommendation #20. (Background: SB 610 and 221 are referenced twice – in Recommendation #7 and #20. There have been proposals to weaken these requirements, using a justification of climate change and alternate energy.)	Evon Chambers	60 days
14. OPR to provide regional contacts list to Judie Talbot for use in notify contacts of upcoming Water Plan activities in the regions.	Ben Rubin to ask Allison Joe	60 days
15. Notify the Land Use Caucus of Regional Forum dates, so that information can be sent out to the Land Use network.	Judie Talbot	30 days
16. Resend the revised progress report template to Caucus members	Elizabeth Patterson	30 days
17. Contact Chris Keithley to discuss data on identifying communities at increased risk for wildfire and specifically share information on the CalFIRE Forest Assessment.	Ben Rubin (Lisa Beutler to assist if needed)	60 days

Key Discussion Items:

Welcome, Introductions and Agenda Review

The Land Use Caucus met on April 5, 2012 to review the current version of the RMS chapter and hear status updates. Lisa Beutler, Executive Facilitator, MWH, reviewed the agenda for the workshop and introductions were made around the room and on the phone.

Land Use RMS

Ben Rubin, Governor's Office of Planning and Research (OPR) explained that OPR is involved with a number of different strategies and caucuses and subsequently tries to integrate the various aspects of the Water Plan. Similarly, the Land Use RMS itself cuts across many RMSs. The abstract of chapter did not change. The themes within the abstract are now reflected throughout the RMS chapter. Overall, the revisions represent a light update. For example, language was added to clarify the description of SB 375. This legislation connects vehicle miles travelled, land use and transportation to AB 32 for greenhouse gas reduction.

Volume 1, Chapter 4 of the Water Plan, "California Water Today" includes significant sections for land use. This chapter was discussed at the Public Advisory Committee (AC) meeting on April 4, 2012. Staff will reconcile the recommendations with the RMS. Staff working on this RMS asked for notes from the meetings where these topics have been discussed by others. It was agreed that Judie Talbot, Center for Collaborative Policy (CCP), will send Elizabeth Patterson, Department of Water Resources (DWR) the land use notes from the Public AC and Mountain Counties Regional



Forum meeting summaries.

Mr. Rubin explained that at the initial Land Use RMS workshop, comments were received in the room – along with some written comments – which helped strengthen the RMS. Comments were reviewed and incorporated into the RMS as possible. Participants were encouraged to review the revised RMS to assure that comments were accurately captured. Efforts are now focusing on photos, graphics, tables and examples of best practices. Examples are also being updated for the revised text. In response to a request about graphics sources it was suggest the team check with the infill builders association for photos.

For those offering to forward graphics and photos the team asked that reviewers submit examples for the text.

Mr. Rubin ended his presentation by outlining that recommendations were reorganized. Two recommendations required additional discussion. This includes:

- Recommendation #10 on extension of SB 18 to include compatibility issues with local land use planning and water supply and quality. The other April 15 version will include revisions from today's discussion
- Recommendation #14 that grant and funding decisions should recognize sustainable rural development

Tribal Involvement relating to Local/Regional Planning

Previous comments about the chapter included a request to address Tribal Consultation as discussed in SB 18. SB 18 is a state statute intended to address master planning on a county level that might impact tribal lands and cultural resources. The statute's intent is to require local governments to consult with tribes included on a Native American Heritage Commission (NAHC) list. The law establishes a consultation obligation for local government to notice Tribes about master planning efforts, so that Tribes can be engaged early in a process. The trigger for the consultation obligation involves a change or amendment to a general plan. A specific project linked to a general plan may trigger the obligation as well.

Flood management statutes are also aligned with general plan changes or amendments. The flood component requires that the next time the general plan is updated, that flood issues must be incorporated into the general plan elements. A general plan must demonstrate that a project constructed under the flood legislation is consistent with the SB 18 guidelines. OPR guidelines on SB 18 provide a good summary of the requirements.

One concern is with the term “consultation” which has a specific meaning for federal law. Currently, the state does not have a comparable state consultation policy. Another concern

The spirit of the request for adding text on this topic is that there are local activities that affect Tribes. There are expectations about interactions and some people don't believe the intended coordination with Tribes is being met at this time.

In some cases the lack of interaction is far from deliberate as activities may seem urban and not related to issues under the jurisdiction of a particular tribe. More information on how activities



done by urban planning efforts do affect Tribal areas, especially in terms of watershed issues, is needed. The issues of watersheds are important and beginning to be looked at more broadly in land use planning.

The specific requirements of SB 18 has created some concern as many believe it is difficult to discern what may be required. For example, the City of Benicia wanted to increase its water supply. The city's water source is the Sacramento River. This immediately affects Shasta reservoir lands and anything downstream from that. It would be difficult for a local agency to know what may need to be considered related to tribes within such a local planning processes. It was not clear whether or not there would be a requirement to coordinate with Tribes in the Shasta area.

Kimberly Johnston-Dodds, DWR Tribal Liaison, remarked that she could see the areas of concern on both sides. She asked what local government would be willing to do related to this topic and what would other Non Governmental Organizations (NGOs) and Councils of Governments (COGs) would be willing to do to support both the planners and the tribes. As an example, there are other regional planning efforts, such as those associated with transportation. The question revolves around how inclusive regional planning approaches want to be. Integrating water management may well involve working with Tribes, which are also local land use authorities. There are many layers and unique characteristics of Tribal communities. The COG and Municipal Transportation Commission are talking to Benicia. So there is a possible logical nexus of expanding some these conversations to Tribes. It was acknowledged that everyone has a great deal to do and there may hesitation or other factors that haven't played out yet.

Several people in the group then expanded on the direct connection with Metropolitan Planning Organizations. For instance, the San Diego Association of Governments (SANDAG) serves as a great model for integrating Tribal governments and communities into planning processes at an early stage. SANDAG goes far beyond transportation. The focus is about finding avenues for bringing Tribal communities into local planning processes. There are existing examples: Humboldt County provides a model; Shasta County MPO¹ has a consultation policy with Tribes; and the City of Chico has established a protocol for working with the Mechoopda. These represent concerted efforts to finding ways to work with Tribal communities, similar to working with other land use authorities.

Stephanie Lucero, CCP Tribal Facilitator, noted that even within the Tribes, there will be different understandings of what consultation or coordination means. The US Forest Service looks at three levels of Tribal engagement – communication, collaboration and/or consultation – depending on the needs of a particular effort.

A caucus member asked how these issues should be addressed in the Water Plan and the Land Use RMS. It the intention to focus on general plans, regional plans or projects?

Mandatory consultation with Tribes is required for General Plans. SB 18 was very hard fought by cities and counties; it took several years to get through. Cities and counties may not see the Water Plan as the appropriate place to reopen the issue. Local concerns are likely to be lessened if this was not a mandatory requirement and if it was not tied to SB18. It might be helpful to broaden the

¹ *Metropolitan planning organization (MPO) is a federally mandated and federally funded transportation policy-making organization*



recommendation out beyond SB18 requirements to other planning opportunities to coordinate with Tribes.

Ms. Johnston-Dodds appreciated the suggestion for broadening out the recommendation, since SB 18 only requires cities or counties to coordinate with Tribes. She noted that MPOs are required in their regional transportation plans to consult with Tribes, although there may be greater flexibility. There are Federal highway guidelines for Tribal involvement. The new State Tribal advisor is working on a state consultation policy that will provide additional guidance.

It was agreed that Elizabeth Patterson would work with others to obtain the Federal highway consultation guidelines to see what might be useful to consider for the Water Plan.

Other Comments from the group included:

- Consider decoupling the concept of Tribal communication, coordination and consultation from SB 18. The focus seems to be more aligned with Tribal governments and communities receiving information so that they have adequate opportunity to provide input.
- Provide placeholder for State consultation guidelines.

In response to some questions about the issue of consultations, it was explained that the Tribes are asking for involvement in planning efforts where they have not been involved in the past. It was noted that the term consultation invokes an impression of one-on-one negotiations, when the request, in some cases, might be a desire for greater collaboration. There was a suggestion that this section of the document provide some context regarding the nuances of this issue. It will be necessary to frame up the topic and explain the different perspectives to support developing a recommendation.

Some noted that the apparent disconnect between some planning departments and some tribes applies to many entities. Local entities tasked with implementations need to know how to connect with Tribes. Networks need to be created with details on how to identify people and how they are supposed to be contacted. Real conversation and discourse is needed, rather than just satisfying requirements for public comments. One person commented that there is a need to provide text about what is required and provide guidelines for quality dialog to address objectives.

Staff commented that this is really the link to Integrated Regional Water Management Plans (IRWMPs), which should be encouraged to adopt a more expansive approach.

Someone noted that a recommendation on this topic needs to be supported by text which flags the issue, or enhances an existing best practice. There needs to be a discussion of barriers or best practices.

Kimberly Johnson-Dodd and Stephanie Lucero, agreed to pull together language to discuss issue and best practices, which will be incorporated into the RMS chapter. This will include larger planning processes that include impacted watersheds.

It was clarified that within the Governor's Office a new Tribal advisor position has been appointed. This is a cabinet-level position. Cynthia Gomez is the first appointee also serves as the Executive Officer of the Native American Heritage Commission.



It was noted that the existing recommendations are action focused, with owners of the actions and specific actions. There is a need to specify what the action is for Tribes or local/regional governments.

IRWM Participation

It was suggested that if Integrated Regional Water Management (IRWM) efforts are going to be a key piece of implementation strategies, the IRWM groups need to be more inclusive. Watershed groups, Tribes and disadvantaged communities need to be involved.

Others note the IRWM process is part of a larger conversation. Some wondered why IRWM groups be involved, since they do not have authority for land use planning authority. In response, it was suggested it may make more sense to make recommendations related to land use entities.

There was a question as to whether an IRWM recommendation should be developed for this RMS. In considering the question, some felt it's not clear what the baseline situation is. For example, how many people should be involved in the IRWMs? How many actually are participating. Instead of a specific recommendation, some suggested it would be helpful to set up an approach for evaluating the current state. This type of information could inform the progress report.

Following that thought, some felt describing the existing IRWM process and infrastructure might be helpful. This would begin with state policy, and describe the direction to IRWMs and the relationships of IRWMs and local government. It was suggested that the IRWM process might be a way to implement guidance for communication, coordination and collaboration. Stephanie Lucero noted that the Tribes are undertaking an assessment of Tribal involvement in IRWM.

There was a suggestion that an IRWM recommendation would need to encourage overall inclusion – the scope would be expanded beyond Tribes.

For next steps, Lew Moeller, DWR and Karen Buhr (Advisory Committee member representing the California Association of Resource Conservation Districts -CARCD) will check in with the IRWM Strategic Plan process, to see if there is an opportunity to engage and discuss this issue. They will develop a recommendation regarding assessing the current state of IRWM efforts. This will then link to the progress report.

Discussion: Rural Development

Ben Rubin explained that this recommendation was re-worded in response to a comment that “one size does not fit all” for land use – especially when it comes to sustainable rural development. Rural environments require custom-designed approaches for development. Lew Moeller noted that this issue surfaced in the Mountain Counties Regional Forum. The challenge around land use in the Mountain Counties area comes from development based on wells and septic. These are not cost-effective or effective on a long-term basis. The Mountain Counties Forum would like to interface with the Land Use Caucus, perhaps through a workgroup.

Other land use issues in the Mountain Counties focus on forestry and land management. Forestry practices need to be reflected in county planning. Erosion control policies are needed to address



erosion and sedimentation processes. There are parcels that are already entitled, so are not many tools for county planners to use in rural areas.

In this version of the draft, text was added to deal with rural development issues, including a discussion on sustainable rural land use and water issues and benefits. The recommendation is needs to augmented. Recommendation #14 doesn't provide guidance for any particular sections of the state. It would be good to have others involved to review the RMS.

Some issues around this recommendation are to:

- avoid one-size-fits-all approaches
- highlight different and important rural issues

Much of what was discussed in the Mountain Counties Forum touches on statewide issues. The Regional Report could reference the broader issues in the RMS and then describe conditions that are specific to Mountain Counties.

Angela Avery, Sierra Nevada Conservancy (SNC), will check to see if there are any source documents, language or text that relate to land use issues in their materials.

There was also interest in exploring the concept of a work group within Mountain Counties to discuss the RMS and tools that are helpful for rural areas. The land use RMS has many tools that would be helpful for rural development. It may be helpful to have a discussion about the tools with such a group.

For example, the Regional Report might want to reference the RMS recommendations that they would like to emphasize. A focused session with the right people will help sort out whether another recommendation is needed. In the Mountain Counties, there is interest in taking a look at the current general plan and see what other outcomes might arise from different land use decisions.

Discussion: Use of “should” or “could” in recommendations

The straw proposal is that for where the State has jurisdiction use “should,” where there is no jurisdiction use the word “could.” Conversely, if it's worth recommending, then the recommendation text needs to be “should.”

OPR uses “should” when there is a statutory mandate; they use “could” when there is no statutory mandate. Generally, the recommendations extent beyond statutory mandates and therefore it seems that the recommendations would say “could.” The Water Plan does not generate statutory mandates and uses “should” in a different context. The Water Plan informs the legislature, which could act on recommendations to create or refine standards, resources or legislation.

The issues around the use of the word “should” or “could” focus on:

- considerations of jurisdiction, and the nature and jurisdiction for the recommendation
- strength of recommendation

There also considerations of financial responsibilities associated with “should.” Will funding be provided or are these unfunded mandates? Each recommendation should have a discussion



regarding funding. There is inadequate funding for planning activities. This can be raised in the Finance Plan and in the introduction for each RMS.

It was decided the recommendations will say “should.”

For next steps, Elizabeth Patterson will provide draft text to identify if cap and trade revenue might be a source of funding for planning activities.

Discussion: Other Comments

Caucus members were asked to provide references for the Land Use RMS. It was suggested that OPR look at Legislative Analyst Office (LAO) documents for some potential graphics. Eric Kandel has a book on illustrating ideas, which might help thinking on this.

For next steps, Lisa Beutler will connect with James Nachbauer (LAO) on potential related graphics.

Elizabeth Patterson will send out an illustration of how land use decisions are made and Ben Rubin will resend the link to the current working version.

Lisa Beutler will follow-up to make sure Recommendation #1 (incentives for infill and compact development) will be circled back to the DAC/EJ Caucus. Ben Rubin will take back to Debbie Davis for consideration;

Evon Chambers (Advisory Committee member representing the Planning and Conservation League) will provide language to strengthen Recommendation #20. (Background: SB 610 and 221 are referenced twice – in Recommendation #7 and #20. There have been proposals to weaken these requirements, using a justification of climate change and alternate energy.)

Ben Rubin will include footnotes related to SB 610 and 221 and add text to explain the importance of these laws relative to the RMS.

Status Updates

Lew Moeller reported that the Regional Report storyboard and new outline have been developed. Specific outlines are being created for the overlay areas. There is a potential for land use to be an issue for other geographic areas with rural areas. The desire is for the Land Use RMS to be referenced in the Regional Reports, with a discussion on how land use is being addressed in the regions.

For next steps, Ben Rubin will ask Allison Joe to provide the regional contacts that OPR is using for their outreach to Judie Talbot. Judie will also notify the Land Use Caucus of Regional Forum dates, so that information can be sent out to the Land Use network.

The pilot projects being done in conjunction with Sonoma State (for the application of the land use decision tool) will be starting in about four weeks. There will be write-ups by December, and the incorporation point for information gathered during the pilots will be during the Public Review Draft period.



Progress Report

There was a reminder that a sub-committee is being formed to work with the IRWM on the progress report. The progress report is evaluating the status of the thirteen objectives identified in Update 2009. Some revisions were made to the original template. The previous discussion suggested some geographic distinctions about land use planning, using a weighted population approach. There was a question as to whether there is adequate information to provide a grade. UC Davis is assisting in developing metrics for geographic or population-based weighting. Elizabeth Patterson will resend the revised progress report template to the Caucus.

Related Topics

At the Public AC meeting, on April 4, 2012, there was a discussion of metrics that might be developed with the Environmental Goals and Policy Report. This might be helpful for the Water Plan and collecting data on how they are being implemented. It's difficult to know which counties and communities have adopted Low Impact Development.

There was also interest in Ben Rubin connecting with Chris Keithley to discuss data on identifying communities at increased risk for wildfire and specifically share information on the CalFIRE Forest Assessment. Lisa Beutler offered to assist if needed.

OPR has an annual planning survey that goes out to all cities and counties, which has an 87% response rate. It can be used as a tool to collect information and will be helpful for future information regarding which counties have adopted an optional water plan element.

Next Steps

There was a recap of the Water Plan production schedule. The Land Use RMS will go to the Public AC in June and all RMSs will have a quick review at the Plenary. The Environmental Goals and Policy statement is expected to be released in December. Any changes in State policy will need to be coordinated.

Comment - FLAG: Language for "should" and "could" needs to be consistent throughout the Water Plan. Does "should" get used for State actions and "could" for local actions?

Comment: Include placeholder for the Environmental Goals and Policy report.

Attendance

In person:

Al Herson, American Planning Association
Al Schiff, California Public Utilities Commission
Angela Avery, Sierra Nevada Conservancy
Ben Rubin, OPR
Betty Yee, Central Valley Water Board
Elizabeth Patterson, DWR
Evon Chambers, Planning and Conservation League



Hoa Ly, DWR
Karen Buhr, California Association of Resource Conservation Districts
Jennifer Morales, DWR, Climate Change Team
Kristin Honeycutt, DWR
Kimberly Johnston-Dodds, DWR Tribal Liaison
Lew Moeller, DWR
Stephanie Lucero, CCP, DWR Tribal AC facilitator
Vanessa Thompson, OPR

Via webinar:

Cheryl Essex, California Department of Parks and Recreation
James Nachbauer, Legislative Analyst's Office
John Ricker, County of Santa Cruz
Nathaniel Roth, UC Davis
Jennifer Svec, California Association of Realtors
Michelle Selmon, DWR, Climate Change Team

Facilitation: Lisa Beutler, MWH, Executive Facilitator; Judie Talbot, CCP, Associate Facilitator